

FACTS

3. Since at least August 9, 1994, Langley has entered into home improvement contracts with Indiana consumers.
4. During 1994, the Consumer Protection Division of the Indiana Attorney General's Office received consumer complaints from persons alleging violations of the Indiana Deceptive Consumer Sales Act and the Indiana Home Improvement Contracts Act.
5. On August 9, 1994, Roseanne Jensen, acting as an agent of the Defendant, entered into an Assurance of Voluntary Compliance with the State of Indiana on behalf of the Defendant, wherein the Defendant agreed, in relevant part:
 3. *Respondent [American Heritage Barns] agrees, pursuant to Ind. Code §24-5-11-10, in every consumer home improvement contract to provide a completed home improvement contract to the consumer before it is signed by the consumer. Respondent agrees that the contract must contain at a minimum the following:*
 - a. *The name of the consumer and the address of the residential property that is the subject of the home improvement.*
 - b. *The name and address of the home improvement supplier and each of the telephone numbers and names of any agent to whom consumer problems and inquiries can be directed.*
 - c. *The date the home improvement contract was submitted to the consumer and any time limitation on the consumer's acceptance of the home improvement contract.*
 - d. *A reasonably detailed description of the proposed home improvements.*
 - e. *If the description required by Indiana Code 24-5-11-10(a)(4) does not include the specifications for the home improvement, a statement that the specifications will be provided to the consumer before commencing any work and that the home improvement contract is subject to the consumer's separate written and dated approval of the specifications;*
 - f. *The approximate starting and completion date of the home improvements;*
 - g. *A statement of any contingencies that would materially change the approximate completion date.*
 - h. *The home improvement contract price.*

- i. *Signature lines for the home improvement supplier or the supplier's agent and for each consumer who is to be a party to the home improvement contract with a legible printed or a typed version of that person's name placed directly after or below the signature.*
4. *Respondent agrees, pursuant to Ind. Code §24-5-11-11, that before the consumer signs the home improvement contract and before the consumer can be required to make a down payment, the home improvement supplier must have agreed unequivocally by written signature to all of the terms of the home improvement contract.*
5. *Respondent agrees, pursuant to Ind. Code §24-5-11-12, that the Respondent shall give a fully executed copy of the home improvement contract to the consumer immediately after the consumer signs it. The contract must also show the dates the supplier and each consumer executed the contract.*
6. *Respondent, in soliciting and/or contracting with consumers, agrees to refrain from conducting any business activity in the State of Indiana unless those activities are in full compliance with the Home Improvement Contracts Act, Ind. Code §24-5-11-1—14.*
7. *Respondent, in soliciting and/or contracting with consumers, agrees to comply in all aspects with the Indiana Deceptive Consumer Sales Act, Ind. Code §24-5-0.5-1—10.*

A true and accurate copy of the Assurance of Voluntary Compliance between the State of Indiana and the Defendant is attached and incorporated by reference as Exhibit "A."

6. On or about December 18, 2001, the Defendant entered into a contract with Paul and Lynn Chambers ("the Chambers") of Gosport, Indiana, wherein the Defendant represented that he would re-roof the Chambers' home at a price of Twenty-One Thousand One Hundred Seventy Dollars (\$21,170.00), which the Chambers paid. A true and accurate copy of the Defendant's contract with the Chambers is attached and incorporated by reference as Exhibit "B".

7. The Defendant failed to include the following information in his contract with the Chambers:

- a. The names of any agent to whom consumer problems and inquiries can be directed;
- b. Any time limitation on the consumer's acceptance of the home improvement contract;
- c. The approximate starting and completion dates of the home improvement; and
- d. A legibly printed or typed version of that person's name place directly after or below the signature.

8. The Defendant failed to obtain the necessary building permit before commencing work on the Chambers' home.

9. At contract signing, the Defendant represented to the Chambers that the work would be completed within a reasonable period of time.

10. The Defendant began, but has yet to either complete the work on the Chambers' home, or to provide a full refund to the Chambers.

COUNT I – VIOLATION OF THE HOME IMPROVEMENT CONTRACTS ACT

11. The service described in paragraph 6 is a "home improvement" as defined by Ind. Code §24-5-11-3.

12. The transaction referred to in paragraph 6 is a "home improvement contract" as defined by Ind. Code §24-5-11-4.

13. The Defendant is a "supplier" as defined by Ind. Code §24-5-11-6.

14. By failing to provide the Chambers with a completed home improvement contract, containing the information referred to in paragraph 7, the Defendant violated the Home Improvement Contracts Act, Ind. Code §24-5-11-10.

15. The Defendant's violation of the Indiana Home Improvement Contracts Act, as referred to in paragraph 7, constitutes a deceptive act and subjects the Defendant to the remedies and penalties under Ind. Code §24-5-0.5.

COUNT II – VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT

16. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 15 above.

17. The transaction referred to in paragraph 6 is a "consumer transaction" as defined by Ind. Code §24-5-0.5-2(a)(1).

18. The Defendant is a "supplier" as defined by Ind. Code §24-5-0.5-2(a)(3).

19. The violation of Indiana Home Improvement Contracts Act referred to in paragraph 7 constitutes a deceptive act in accordance with Ind. Code §24-5-11-14.

20. By representing to the Chambers that the contracted work would be performed, as referred to in paragraph 6, when the Defendant knew or reasonably should have known that no such benefit would be conferred or work would be performed, is a violation of Indiana Deceptive Consumer Sales Act, Ind. Code §24-5-0.5-3(a)(1).

21. By representing that he could provide home improvement services for the Chambers within a reasonable amount of time, when the Defendant knew or reasonably should have known that he would not provide the home improvement services within that time period, as referred to in paragraph 9, the Defendant violated Ind. Code §24-5-0.5-3(a)(10).

22. By soliciting to engage in home improvements without the necessary permit, as referred to in paragraph 8, the Defendant violated Ind. Code §24-5-0.5-10(a)(1)(A).

**COUNT III – KNOWING AND INTENTIONAL VIOLATIONS OF
THE DECEPTIVE CONSUMER SALES ACT**

23. Plaintiff realleges and incorporates by reference the allegation contained in paragraphs 1 through 22 above.

24. The misrepresentations and deceptive acts set forth in paragraphs 6, 7, 8, and 9 were committed by the Defendant with knowledge and intent to deceive.

RELIEF

WHEREFORE, the Plaintiff, State of Indiana, requests the Court enter judgment against the Defendant, Randy Langley, individually and doing business as American Heritage Barns, enjoining the Defendant from the following:

- a. in the course of entering into home improvement transactions, failing to provide to the consumer a written, completed home improvement contract which includes at a minimum the following:
 1. the name of the consumer and the address of the residential property that is the subject of the home improvement;
 2. the name and address of the home improvement supplier and each of the telephone numbers and names of any agent to whom consumer problems and inquiries can be directed;
 3. the date the home improvement contract was submitted to the consumer;

4. any time limitation on the consumer's acceptance of the home improvement contract;
 5. a reasonably detailed description of the proposed home improvements, or if the description required by Ind. Code §24-5-11-10(a)(4) does not include the specifications for the home improvement, a statement that the specifications will be provided to the consumer before commencing any work and that the home improvement contract is subject to the consumer's separate written and dated approval of the specifications;
 6. the approximate starting and completion date of the home improvements;
 7. a statement of any contingencies that would materially change the approximate completion date;
 8. the home improvement contract price; and
 9. signature lines for the home improvement supplier or the supplier's agent and for each consumer who is to be a party to the home improvement contract with a legible printed or typed version of that person's name placed directly after or below the signature.
- b. in the course of entering into home improvement transactions, failing to agree unequivocally by written signature to all of the terms of a home improvement contract before the consumer signs the home improvement contract and before the consumer can be required to make any down payment;

- c. in the course of entering into home improvement transactions, failing to provide a completed home improvement contract to the consumer before it is signed by the consumer;
- d. in the course of entering into home improvement transactions, failing to give a fully executed copy of the home improvement contract (including the date signed by the supplier and the consumer) immediately after the consumer signs it;
- e. representing, expressly or by implication, that the subject of a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses, or benefits it does not have, which the Defendant knows or should reasonably know it does not have;
- f. representing, expressly or by implication, that the Defendant is able to start or complete a home improvement within a stated period of time, or when no time period is stated, within a reasonable time, when Defendant knows or should reasonably know he cannot; and
- g. soliciting or engaging in a home improvement transaction without a license or permit required by law.

AND WHEREFORE, the Plaintiff, State of Indiana, further requests the Court enter judgment against the Defendant for the following relief:

- a. consumer restitution, in an amount to be determined at trial, for money unlawfully received from the Chambers, pursuant to Ind. Code §24-5-0.5-d(c)(2);

b. costs pursuant to Ind. Code §24-5-0.5-4(c)(3), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action

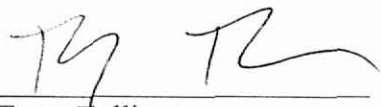
c. on Count III of the Plaintiff's Complaint, civil penalties pursuant to Ind. Code §24-5-0.5-4(g) for the Defendant's knowing violations of the Deceptive Consumer Sales Act, in the amount of five hundred dollars (\$500.00) per violation, payable to the State of Indiana;

c. on Count III of the Plaintiff's Complaint, civil penalties pursuant to Ind. Code §24-5-0.5-8 for the Defendant's intentional violations of the Deceptive Consumer Sales Act, in the amount of five hundred dollars (\$500.00) per violation, payable to the State of Indiana;

d. All other just and proper relief.

Respectfully submitted,
STEVE CARTER
Indiana Attorney General
Atty. No. 4150-64

By:


Terry Tolliver
Deputy Attorney General
Atty. No. 22556-49

Office of Attorney General
Indiana Government Center South
302 W. Washington Street, 5th Floor
Indianapolis, IN 46204